

MOTION BY SUPERVISOR ZEV YAROSLAVSKY

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In 2005, Congress passed, and President George W. Bush signed, legislation that prohibited the United States Environmental Protection Agency (“EPA”) from regulating hydraulic fracturing (“fracking”) under the Safe Drinking Water Act. Among the theories put forward as to why this legislation was sound public policy was the notion that the States could and would regulate fracking without the federal government’s involvement. However, more than seven years later, and despite the fact that the EPA is taking a second look at whether fracking should be subjected to national oversight, the State of California has not yet filled this regulatory gap. Fortunately, the State legislature and Governor Brown now have the opportunity to appropriately regulate fracking and protect public health and safety. The Board of Supervisors should support their efforts to do so.

As background, the oil and gas industry has increasingly used fracking to extract oil and natural gas in the Los Angeles region. Fracking pumps chemicals, gels, foams, fluids, or compressed gases into the earth in order to crack open underground rock formations and release underlying oil and natural gas. The practice has become

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increasingly widespread and is raising concerns about environmental impacts, particularly with regard to potential groundwater contamination and the possibility that fracking can induce seismic activity.

Despite Congress' apparent assumption that the States would act to protect public health and safety, the State of California does not currently require oil companies to disclose the location of wells in which fracking is used, or what chemicals are used in the fracking process.

The State has released draft fracking regulations through the California Division of Oil, Gas, and Geothermal Resources ("DOGGR"); however these fail to address the public's concern about potential health, environmental, and water supply contamination issues. Furthermore, legislative informational hearings held in February 2013 revealed poor coordination between regulators, significant gaps in regulation, and a lack of available data related to disposal of water used in the fracking process.

Senate Bill 4 by Senator Fran Pavley addresses those issues by providing a comprehensive statutory framework for fracking regulation in California. Specifically, the bill would, among other things: 1) require that DOGGR adopt fracking regulations by January 1, 2015 that include full disclosure of the composition and disposition of hydraulic fracking fluids and provide trade secret protection for chemical formulas; 2) mandate that well operators obtain a permit for fracking and provide at least 30 days advanced notice to DOGGR, the public, and the Regional Water Quality Control Board of intent to frack a well; 3) direct that an independent scientific study on fracking addressing occupational, public, and environmental health and safety issues, including induced seismicity, be conducted by January 1, 2015; and 4) allow for baseline and

follow-up water quality testing on water wells and surface water by the regional water board. The provisions of SB 4 will ensure transparency and accountability needed to protect the State's air quality, environment, and water supply.

This bill and other legislative efforts that would fill the regulatory gap and ensure that any fracking that occurs in California would be done in a manner that protects public health and safety deserve the Board's support.

I, THEREFORE, MOVE that the Board of Supervisors:

- 1) Support Senate Bill 4 (Pavley) and other fracking-related legislation that would provide at least SB 4's level of protection for public health and safety;
- 2) Instruct the County's legislative advocates in Sacramento to take appropriate actions to ensure passage of this legislation; and,
- 3) Notify the Board of Supervisors of any substantive revisions that modify the intent of SB 4.

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